

FILED

SEP 20 2011

UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In Re:) Chapter 13
Daniel and Lee Anne Barbara,) Case No. 0:11-bk-19648-JMM
Debtor(s),) Adversary No. 0:11-ap-01514-JMM
_____)
Daniel and Lee Anne Barbara,)
Plaintiff(s),) **MOTION FOR DEFAULT JUDGMENT**
Kristy Osius,)
Melinda Silk, Attorney,)
_____) Defendant(s.)

MOTION FOR ORDER ENTERING DEFAULT JUDGMENT

AGAINST DEFENDANT(S) FOR FAILURE

TO RESPOND TO SUMMONS

COME NOW, Plaintiffs, DANIEL AND LEE ANNE BARBARA, in proper person, who move this Honorable Court for an Order Entering a Default Judgment against Defendants, KRISTY OSIUS, and MELINDA SILK in the matter of the Adversary Complaint (No. 0:11-ap-01514-JMM) filed against Defendants by Plaintiffs in the United States Bankruptcy Court for the District of Arizona, Yuma Division, on August 19,

1 The Plaintiffs allege that the conditions for an Order Entering a Default Judgment against Defendants
2 have been met based upon the foregoing facts of the matter:

- 3 1. That on August 19, 2011, the Plaintiffs did file in the United States Bankruptcy Court for the District
4 of Arizona, Yuma Division an Adversary Complaint against Defendants (Kristy Osius and Melinda
5 Silk) (Adversary No. 0:11-ap-01514-JMM).
- 6 2. That on August 19, 2011, a Deputy Clerk of the Court for the United States Bankruptcy Court for the
7 District of Arizona did sign and issue a Summons requiring a response of Kristy Osius and Melinda
8 Silk to the aforementioned Complaint.
- 9 3. That on August 19, 2011, Plaintiff, Daniel Barbara, did serve upon Defendants Kristy Osius and
10 Melinda Silk true and accurate copies of both the Complaint and the Summons issue by the Court by
11 Regular, first class United States mail, postage fully pre-paid, and addressed to:
12 Kristy Osius, 1240 N County Rd. C, Exeland, WI 54835 and
13 Melinda Silk, 59 Mulberry Ave., Lake Havasu City, AZ 86403, the known addresses of the
14 Defendants.
- 15 4. That on August 20, 2011, the Plaintiffs did file with the U.S. Bankruptcy Court for the District of
16 Arizona, Yuma Division, a Certificate of Service for documents served upon each Defendant.
- 17 5. That, to date, no notice has been received by the Plaintiffs of any of the aforementioned items
18 determined by the U.S. Postal Service to be undeliverable, nor have any such documents been
19 returned to Plaintiffs.
- 20 6. That the aforementioned addresses for Defendants are the addresses which the Defendants provided
21 to the Court in a related matter.
- 22 7. That, more than thirty (30) days having passed since the issuance of the aforementioned Summons
23 by the Court, the time for a response has expired.
- 24 8. That, to date, no response has been received from the Defendants pursuant to the Summons in this
25 matter.

1 10. That the Plaintiffs did, on September 19, 2011, deposit in the United States Mail (along with this
2 Motion) a filing in Application to the Clerk of the Court for an Entry of Default against the
3 Defendants.

4 11. That in addition to failing to respond to the Summons in this matter issued by the Clerk of the Court,
5 the Defendants have proceeded with Creditor actions in State Court in continuing violation of the
6 Automatic Stay in this case, the very action that precipitated the filing of this Complaint.

7 12. That if an Order is not issued by the Court, Defendants will continue to pursue such actions as are
8 prohibited under the Automatic Stay, thereby further violating the Plaintiffs' rights under the
9 Automatic Stay and prejudicing both the Plaintiffs and the Plaintiffs' other Creditors in this matter.

10 NOW, Therefore, Plaintiffs move this Honorable Court to issue an Order Entering a Default Judgment
11 against Defendants Kristy Osius and Melinda Silk in this matter (a draft of which Order is attached for the
12 Court's consideration).

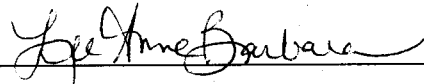
13 RESPECTFULLY SUBMITTED this 19th day of September, 2011.

14
15 Signature



16 Plaintiff, Daniel L. Barbara

17
18 Signature



19 Plaintiff, Lee Anne Barbara